

**Table of Contents**

1.0 DEFINITIONS.....	1
2.0 ORDER OF PRECEDENCE .....	1
3.0 SUBCONTRACT COMPLIANCE .....	2
4.0 WAIVER .....	2
5.0 WARRANTY .....	2
6.0 INDEMNITY .....	2
7.0 NUCLEAR SAFETY AND INDEMNITY .....	2
8.0 ASSIGNMENT .....	2
9.0 CHANGES.....	2
10.0 TERMINATION FOR CONVENIENCE .....	3
11.0 TERMINATION FOR CAUSE .....	3
12.0 LAWS AND REGULATIONS.....	3
13.0 DISPUTES .....	3
14.0 SUSPECT AND COUNTERFEIT ITEMS .....	3
15.0 TAXES.....	3
16.0 HOLIDAY AND WORK SCHEDULES.....	3
17.0 INVOICING AND PAYMENT.....	4
18.0 PAYMENTS AND TITLE .....	4
19.0 CONFIDENTIAL AND PROPRIETARY INFORMATION.....	4
20.0 SUPPLEMENTAL TERMS & CONDITIONS.....	5

**1.0 DEFINITIONS**

Whenever used in this document, the following definitions shall apply unless the content indicates otherwise.

**Authorized Procurement Representative** – The term “authorized procurement representative” shall be a CH2M HILL person with authority to enter into and administer Subcontracts and make related determinations and findings. These individuals are identified with the associated authority in the body of the Subcontract.

**Buyer’s Technical Representative (BTR)** – The term “Buyer’s Technical Representative (BTR)” means the individual responsible for providing technical direction to the SUBCONTRACTOR. The BTR does not possess any explicit, apparent or implied authority to modify Subcontract terms and conditions.

**Commercial Item** - The term Commercial Item or “item” shall mean any item or service including minor modifications thereto which is customarily used for non-governmental purposes and have been or will be sold, leased, or licensed to the general public.

**CH2M HILL** – The term “CH2M HILL” means CH2M HILL Hanford Group, Inc.

**Government** – The term “Government” shall mean the United States of America and includes the U.S. Department of Energy (DOE) Office of River Protection (ORP), or any duly authorized representative thereof, including the CH2M HILL Administrative Contracting Officer (ACO).

**Lower-Tier Subcontractors** - The term “lower-tier Subcontractors” refers to companies or individuals with whom the SUBCONTRACTOR has purchase orders and rental agreements for materials or equipment, and other services not performed directly by the SUBCONTRACTOR under this Subcontract.

**SUBCONTRACTOR** – The term SUBCONTRACTOR refers to the company, person or organization, including all lower-tier Subcontractors, performing Work under this Subcontract.

**Subcontract** – The term Subcontract shall mean this Subcontract or Purchase Order between CH2M HILL Hanford Group, Inc. (CH2M HILL) and SUBCONTRACTOR including its terms, conditions, clauses, provisions, written direction and instructions, releases, and documents.

**Work** – The term “Work” includes all material, labor, tools, and all appliances, machinery, and transportation, necessary to perform and complete the Subcontract’s requirements, and such additional items not specifically indicated or described that can be reasonably inferred as required to complete the Subcontract.

**2.0 ORDER OF PRECEDENCE**

In the event of a discrepancy among any of the Subcontract terms, conditions, clauses, provisions, written direction and instructions, and documents (collectively, the 'Subcontract'), the following order of precedence shall govern resolution: (i) CH2M HILL’s written Subcontract, modifications, directions, and instructions; (ii) Special Provisions; (iii) Commercial General Provisions; (iv) Statement of Work ('SOW'); (v) Technical Specifications; and (vi) Drawings.

Nothing recited above shall be construed as superseding or deleting any applicable statute, rule, ordinance, or regulation (collectively, the 'Laws'). In the event of a conflict with Laws, the specific conflicting term of the Subcontract shall be considered null and without effect, Laws shall govern. All remaining terms unaffected by said Laws shall continue in force.

### **3.0 SUBCONTRACT COMPLIANCE**

By signing this Subcontract or starting performance, the SUBCONTRACTOR agrees to comply with the terms and conditions, specifications and other documents that this agreement incorporates by reference or attachment. The specifications, drawings and documents referred to herein is the entire agreement between the parties. Only the CH2M HILL authorized procurement representative as specified in this agreement has the authority to enter into, administer, and/or terminate this agreement and make related determinations and findings.

### **4.0 WAIVER**

CH2M HILL's failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Subcontract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege. No asserted waiver of any right or benefit by CH2M HILL shall be valid unless such waiver is in writing, signed by the CH2M HILL authorized procurement representative, supported by consideration and specifies the extent and nature of the rights or benefits being waived. In the event any Provision, or any part or portion of any Provision of this Subcontract should be found to be invalid, void or otherwise unenforceable, such finding shall not affect the remaining part or portions of that Provision, or any other Provision.

### **5.0 WARRANTY**

SUBCONTRACTOR warrants that all items and services conform to Subcontract specifications, drawings, and other descriptions and will be of merchantable quality, fit and sufficient for the purposes for which they are intended as evidenced in the Subcontract. Warranty shall begin upon CH2M HILL's acceptance and extend for a period of (1) the manufacturer's warranty or one year, whichever is longer, if SUBCONTRACTOR is not the manufacturer and has not modified the item or (2) one year or the manufacturer's warranty period, whichever is longer, if SUBCONTRACTOR is the manufacturer of the item or has modified it. If any nonconformity is discovered within that time, the SUBCONTRACTOR shall promptly repair or replace such items or re-perform services. Transportation of replacement items, return of nonconforming items and repeat performance of services shall be at SUBCONTRACTOR's expense. If repair, replacement or re-performance of services is not timely, CH2M HILL may elect to return the nonconforming items, repair, replace and/or re-procure the item or service at the SUBCONTRACTOR's expense. This warranty shall restart upon CH2M HILL's acceptance of the repair, replacement or re-performance.

### **6.0 INDEMNITY**

SUBCONTRACTOR agrees to assume the risk of and to release, defend, indemnify and hold harmless CH2M HILL, the Government, affiliated companies and their directors, officers, employees, agents and representatives, from and against all loss, damage, liability, cost and expense (including attorney's fees) arising out of any (1) failure to comply with any law, ordinance, regulation, rule or order, (2) injury (including death) to any person or (3) damage to any property in any way connected with the performance of this Subcontract in accordance with the State of Washington Comparative Fault Statute (RCW 4.22) SUBCONTRACTOR agrees to indemnify, hold harmless and defend CH2M HILL and the Government from and against all laborers', materialman's, mechanics', or other liens arising from the performance of SUBCONTRACTOR's obligations under this Subcontract and shall keep the premises of CH2M HILL and the Government free from all such claims, liens, and encumbrances.

To the extent that the SUBCONTRACTOR, SUBCONTRACTOR's workers or lower-tier Subcontractors are covered by the Washington Industrial Insurance Act (RCW Title 51 including any amending, substitute or replacement statutes) or any other industrial insurance, worker's compensation or similar act (Acts), SUBCONTRACTOR specifically waives any and all immunity provided by these Acts.

### **7.0 NUCLEAR SAFETY AND INDEMNITY**

The provisions of 48 CFR 952.250-70, *Nuclear Hazards Indemnity Agreement*, are incorporated by reference into these terms and conditions for the delivery of any product or service which has nuclear safety implications. SUBCONTRACTOR shall flow down these provisions to all lower-tier Subcontractors unless expressly waived in writing by the CH2M HILL authorized procurement representative.

SUBCONTRACTOR will be indemnified by the U.S. Department of Energy (DOE) against (i) claims for public liability, and (ii) legal costs arising from any nuclear incident under the provisions of 48 CFR 952.250-70. However, SUBCONTRACTOR and its lower-tier Subcontractors and suppliers that are indemnified are subject to civil penalties under provisions of the Atomic Energy Act of 1954, as amended, for violations of DOE nuclear safety related rules, regulations, and orders. In addition, directors, officers, and employees of SUBCONTRACTOR and its lower-tier Subcontractors that are indemnified are subject to criminal penalties for knowing and willful violations.

### **8.0 ASSIGNMENT**

SUBCONTRACTOR shall not assign any of the duties or rights or any claim arising out of or related to this Subcontract, whether arising in tort, Subcontract or otherwise, without the written consent of CH2M HILL. Any unauthorized assignment is void and unenforceable. These conditions and the entire Subcontract are binding on the heirs, successors, and assigns of the SUBCONTRACTOR.

CH2M HILL may assign this Subcontract, in whole or in part to the Government or to such party as the Government may designate to perform CH2M HILL's obligations hereunder. Upon receipt by SUBCONTRACTOR of written notice that the Government or a party so designated by the Government or CH2M HILL has accepted an assignment of this Subcontract, CH2M HILL shall be relieved of all responsibility hereunder and SUBCONTRACTOR shall thereafter look solely to such assignee for performance of CH2M HILL's obligations.

### **9.0 CHANGES**

Changes in the terms and conditions of this Subcontract may be made only by written agreement of the parties. SUBCONTRACTOR shall not suspend performance of this Subcontract during the review and negotiation of any change, except as may be directed by CH2M HILL. SUBCONTRACTOR shall not perform changes to this Subcontract until the CH2M HILL authorized procurement representative has provided written direction.

## **10.0 TERMINATION FOR CONVENIENCE**

CH2M HILL reserves the right to terminate this Subcontract, or any part hereof, for its sole convenience. In the event of such termination, the SUBCONTRACTOR shall immediately stop all Work hereunder and shall immediately cause any and all of its lower-tier Subcontractors to cease Work. Subject to the terms of this Subcontract, the SUBCONTRACTOR shall be paid a percentage of the Subcontract price reflecting the percentage of the Work performed prior to the notice of termination, plus reasonable charges the SUBCONTRACTOR can demonstrate to the satisfaction of the CH2M HILL authorized representative(s) using its standard record keeping system, have resulted from the termination. The SUBCONTRACTOR shall not be required to comply with the Federal Acquisition Regulations cost accounting standards or cost principles for this purpose. The SUBCONTRACTOR shall not be paid for any Work performed or costs incurred which reasonably could have been avoided.

## **11.0 TERMINATION FOR CAUSE**

CH2M HILL may terminate this Subcontract, or any part hereof, for cause in the event of any default by the SUBCONTRACTOR, or if the SUBCONTRACTOR fails to comply with any terms and conditions, or fails to provide the CH2M HILL, upon request, with adequate assurances of future performance. In the event of termination for cause, CH2M HILL shall not be liable to the SUBCONTRACTOR for any amount for supplies or services not accepted, and the SUBCONTRACTOR shall be liable to CH2M HILL for any and all rights and remedies provided by law. If it is determined that CH2M HILL improperly terminated this Subcontract for default, such termination shall be deemed a termination for convenience.

## **12.0 LAWS AND REGULATIONS**

SUBCONTRACTOR shall comply with all applicable federal, state and local laws and ordinances and all pertinent lawful orders, rules and regulations. SUBCONTRACTOR shall act as an independent entity and not as an agent or employee of CH2M HILL or the Government.

## **13.0 DISPUTES**

In the event that the parties cannot, through negotiations, reach agreement on any issue arising out of the Subcontract, the issue will be considered a dispute and shall be resolved in accordance with the following:

If efforts at resolution through good faith discussions and/or negotiations fail to resolve the dispute, the parties agree that before taking any other action, they will consider the use of Alternate Dispute Resolution (ADR). In the event that non-binding mediation or arbitration is agreed upon, the site of the proceedings shall be Richland, Washington, unless otherwise agreed in writing by the parties. The rules for mediation or arbitration and the selection of the arbitrator shall be determined by mutual agreement of the parties. The mediator or arbitrator shall allocate cost, except that there shall be no pre-decisional interest costs, and each party shall bear its discretionary costs.

In the event ADR fails or is not used, primary jurisdiction for the resolution of any claim arising under this Subcontract shall reside in the United States Federal District Court for the Eastern District of Washington. If the requirements for jurisdiction in the United States District Court are not met, the litigation shall be brought in a Court of competent jurisdiction in Benton County, Washington. This Subcontract shall be enforced and interpreted, irrespective of the place of performance, in accordance with the Federal law of Government Subcontracts. To the extent that Federal law is not dispositive of an issue, the laws of the State of Washington shall be applied.

Unless otherwise directed in writing by CH2M HILL, SUBCONTRACTOR shall proceed diligently with the performance of the Subcontract pending final resolution of the dispute.

## **14.0 SUSPECT AND COUNTERFEIT ITEMS**

CH2M HILL reserves the right to question and/or require SUBCONTRACTOR to certify and/or furnish proof regarding the quality, authenticity, application, or fitness for use of the items supplied by the SUBCONTRACTOR under this Subcontract. The SUBCONTRACTOR shall establish and implement appropriate measures to prevent the procurement and incorporation of suspect and counterfeit parts into the deliverable for this Subcontract. In addition, the SUBCONTRACTOR shall report the discovery of suspect and counterfeit items in sufficient detail to establish all circumstances relative to the occurrence.

Any items furnished as part of this Subcontract and which have been previously found by CH2M HILL, the Department of Energy, or the Department of Commerce to be counterfeit or which are listed by the Department of Commerce to be suspect will be deemed, without more proof, to be subject to the above requirement of further proof or certification. CH2M HILL also reserves the right to question the circumstances and make available a report of any such review to the Government. All costs associated with conducting inquiries into and reporting on, components determined to be counterfeit, shall be recovered by CH2M HILL from SUBCONTRACTOR.

## **15.0 TAXES**

The SUBCONTRACTOR shall collect the applicable Washington State sales or use tax from CH2M HILL unless the SUBCONTRACTOR obtains a Direct Pay Permit from CH2M HILL. All other Federal, State, county, municipal or other taxes not excluded by the Washington State Department of Revenue Direct Pay Permit must be included in the Subcontract amount. If as a result of this Subcontract, the SUBCONTRACTOR becomes eligible for Washington State Business and Occupation Tax Credit for Research and Development spending, the SUBCONTRACTOR shall take such tax credit and assign such tax credit to CH2M HILL. If the SUBCONTRACTOR applies for the Washington State Business and Occupation Tax Credit for Research and Development spending, the SUBCONTRACTOR shall notify CH2M HILL. The SUBCONTRACTOR shall fully cooperate with CH2M HILL in any tax audits, tax assessment reviews, or tax challenges.

## **16.0 HOLIDAY AND WORK SCHEDULES**

Daily work schedules and facility operations are NOT uniform among Hanford Site Contractors. In addition, some organizations and facilities observe alternate Friday closures. Accordingly, BEFORE scheduling deliveries, the SUBCONTRACTOR shall make specific schedule arrangements for the delivery of materials with the Buyer, Facility Manager, Delivery Warehouse Manager, Building Manager, etc. CH2M HILL will not be liable for the cost of any delays, demurrage, layover, extra travel days, etc. which result from SUBCONTRACTOR's failure to obtain a specific schedule in advance. Current Hanford Site Facility Closure days are: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day (and following Friday), Christmas Eve and Christmas Day.

## 17.0 INVOICING AND PAYMENT

- 17.1 Invoice Submission Requirements: Original invoices and supporting documentation shall be submitted no more than once a month per calendar month to CH2M HILL's Accounts Payable organization at the address below.
- CH2M HILL HANFORD GROUP, INC.  
Accounts Payable Mail Stop: H6-09  
P.O. Box 1500  
Richland, WA 99352
- Email electronic invoices to: [ch2m\\_ap\\_invoices@rl.gov](mailto:ch2m_ap_invoices@rl.gov)
- 17.2 Invoice Payment Terms: SUBCONTRACTOR shall prepare all invoices in a form satisfactory to and approved by CH2M HILL. Except to the extent expressly stated elsewhere in this Subcontract, the invoice is payable thirty (30) calendar days after receipt by CH2M HILL of a properly marked and submitted invoice. Discounts are expected for earlier payments and shall be specifically incorporated in the Subcontract. All unit pricing and payments made shall be in United States dollars only, in the forms of cash, check or electronic transfer as may be agreed upon. Remittance will be made only to the remittance address on file for the SUBCONTRACTOR. Invoices from third parties or with different remittance instructions or addresses will not be processed. Invoices may be submitted electronically, if in an acceptable format. All invoice requirements still apply to electronic invoices.
- 17.3 Invoice Certification: Submittal of an invoice constitutes SUBCONTRACTOR's certification that materials, work and/or services have been delivered as specified on the invoice in accordance with the Subcontract.
- 17.4 Separate Invoice Requirements: Each Subcontract or Subcontract Release shall be invoiced separately.
- 17.5 Minimum Invoice Requirements: The invoice shall identify the following information:
- SUBCONTRACTOR's name, invoice number, and Subcontract number, and Release number.
  - SUBCONTRACTOR's name and telephone number of a representative available to respond to invoice questions.
  - The total amount due for the billing period (this amount shall be separate from cumulative amounts or subtotals included on the invoice).
  - A corresponding description of each item billed and the associated amount.
- 17.6 Withholding Invoice Payments: CH2M HILL may, at its sole discretion, withhold payment due for, but not limited to, the following reasons:
- Substandard work or delays in the work not corrected promptly.
  - Evidence that a claim has been or will be filed against SUBCONTRACTOR.
  - Evidence that lower tier SUBCONTRACTOR's or suppliers have not been properly paid.
  - Failure to provide accrual reports by the 15th of each month as specified in the Subcontract provisions

## 18.0 PAYMENTS AND TITLE

SUBCONTRACTOR warrants full and unrestricted title to the Government for all items purchased under this Subcontract and is free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances. Excess items received that are of a nominal value shall be kept by CH2M HILL at no cost to CH2M HILL. All items received in excess of Subcontract requirements that are returned shall be returned at SUBCONTRACTOR's expense.

CH2M HILL is entitled to offset and/or deduct any amount owed to the SUBCONTRACTOR under this Subcontract for any amounts owed CH2M HILL under this Subcontract or any other Subcontract with CH2M HILL.

## 19.0 CONFIDENTIAL AND PROPRIETARY INFORMATION

CH2M HILL possesses information of a confidential and proprietary nature about businesses, products, services, and processes of CH2M HILL and the Government. This information, which relates to designs, technical experience, classified information, software, processing systems, databases, financial and other data, intellectual property including trade secrets, customers and vendors, personnel records, research, development, inventions, construction plans, manufacturing, engineering, accounting, bid data, sales and marketing including Subcontract terms, and any information generated pursuant to Work performed in accordance with the Subcontract (collectively, Confidential Information), constitutes a commercial asset of considerable value to CH2M HILL and the Government. SUBCONTRACTOR shall use such Confidential Information only for the purpose of performing work in accordance with the Subcontract and not disclose such Confidential Information to any other person (including the media for purposes of publicity), partnership, venture, firm, government, or corporation without the express written direction of CH2M HILL or the Government, as appropriate. SUBCONTRACTOR further shall make all reasonable efforts to require its employees and any others, including lower-tier Subcontractors, to maintain such Confidential Information in strictest confidence.

Confidential Information shall not include the following:

- Information that is acquired by SUBCONTRACTOR from others who have no confidential commitment to CH2M HILL or the Government; or
- Information that is part of the public domain or becomes, without fault or participation of SUBCONTRACTOR, part of the public domain, by publication or otherwise; or
- Information that is in SUBCONTRACTOR's possession prior to CH2M HILL's or the Government's disclosure to it; or
- Information that is developed independently by SUBCONTRACTOR; or
- Information that is required to be publicly disclosed under operation of law, for which SUBCONTRACTOR will provide at least five (5) working days notice to CH2M HILL or the Government, as appropriate, before disclosure.

All drawings, specifications, prints, financial and other data, and any other written or electronically encoded materials (collectively, 'Documentation') furnished by CH2M HILL and the Government to SUBCONTRACTOR shall remain CH2M HILL's property. In addition, all Documentation developed by SUBCONTRACTOR in the performance of Work in accordance with the Subcontract shall become CH2M HILL's property. Upon

completion of work, SUBCONTRACTOR shall either destroy or return such Documentation and any other Confidential Information reduced to tangible or electronic form, including copies thereof, to CH2M HILL unless CH2M HILL consents to otherwise.

Nothing contained in the Subcontract, or in any disclaimer made by CH2M HILL or the Government, shall be construed to grant SUBCONTRACTOR any license or other rights in or to disclosed Confidential Information or any patent, trademark, or copyright that has been or may be issued unless expressly conveyed by written agreement exclusive of the Subcontract.

In the event that Work performed by SUBCONTRACTOR in accordance with the Subcontract involves the collection or generation of data on persons or associations, SUBCONTRACTOR shall maintain strict confidentiality of records in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), provisions of the Fair Credit Reporting Act (15 U.S.C. 1681), and applicable federal and state agency regulations. Violations of these statutes may result in criminal penalties.

## **20.0 SUPPLEMENTAL TERMS & CONDITIONS**

In as much as Government funds are being used to make payment against this Subcontract, the following Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation (DEAR) clause(s) are hereby incorporated by reference into this Subcontract and shall apply as applicable. For these specific provisions, CONTRACTOR means SUBCONTRACTOR and Contracting Officer means the assigned CH2M HILL authorized procurement representative. The text of the FAR/DEAR clauses may be obtained from the CH2M HILL authorized procurement representative upon request or by linking to the regulations via CH2M HILL's web site at [CH2M HILL Procurement Web Page](#).

1. FAR 52.219-8 Utilization of Small Business Concerns (May 2004)
2. FAR 52.222-26 Equal Opportunity (April 2002)
3. FAR 52.222-35 Affirmative Action for Special Disabled Veterans and Veterans of the Vietnam Era (Dec 2001)
4. FAR 52.222-36 Affirmative Action for Workers with Disabilities (Jun 1998)
5. FAR 52.222-41 Service Contract Act of 1965, as amended (July 2005)
6. FAR 52.225-1 Buy American Act—Supplies (Jun 2003) (Applies to orders for materials over \$2,500 and time-and-materials subcontracts when the value of materials is over \$2,500 but not over \$25,000, but the clause does apply if the amount is over \$25,000 if neither FAR 52.225-3 nor FAR 52.225-5 apply.)
7. FAR 52.225-3 Buy American Act –Free Trade Agreements – Israeli Trade Act (Nov 2006 (Applies if acquisition value is \$25,000 or more but less than \$175,000. If the value is \$25,000 or more but less than \$50,000, Alternate I applies. If acquisition value is \$50,000 or more but less than \$58,550, Alternate II applies.)
8. FAR 52.225-5 Trade Agreements (Nov 2006)
9. FAR 52.225-13 Restrictions on Certain Foreign Purchases (Feb 2006) Applies to orders for materials over \$2,500 and time-and-materials subcontracts when the value of materials is over \$2,500 but not over \$25,000.)